

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8898 of 1998

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
2. To be referred to the Reporter or not? : YES
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

ASLAM SATTAR MEMON

Versus

STATE OF GUJARAT

Appearance:

MS SUBHADRA G PATEL for Petitioner

MS PUNANI AGP for Respondent No. 1, 2, 3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 28/06/1999

ORAL JUDGEMENT

Heard the learned advocates for the respective parties.

The petitioner herein challenges the order of preventive detention dated 7th July, 1998, passed by the Commissioner of Police, Surat City, under the powers conferred upon him under sub-section (1) of section 3 of

the Gujarat Prevention of Anti Social Activities Act, 1985 (hereinafter referred to as 'the Act').

The grounds of detention served upon the petitioner disclose that in the year 1998, four offences have been registered against the petitioner for the offences punishable under Chapters-XVI and XVII of the IPC. All the said cases are pending trial before the concerned court. In two of the offences, the petitioner is charged for stealing the vehicles, while in the other two cases, the petitioner is alleged to have robbed the complainant and has administered threats to the complainant by brandishing a long knife. Further, apart from the above referred four cases pending against the petitioner, two more such incidents have been complained of, however, no offence has been registered in those two cases since the complainants are apprehensive of retaliation and are not agreeable to lodge formal complaint. In both the said cases, the petitioner is alleged to have robbed the respective complainant of his cash in public place. Upon raising alarm, the people had gathered. The petitioner had tried to disperse the crowd by brandishing a knife, on account of which, the people had to run away from the spot and the adjoining shops were all immediately closed. In the second incident, the petitioner is alleged to have dragged the complainant out of his vehicle and hit him. Pursuant to the alarm raised by the complainant, the people had gathered and the petitioner dispersed the crowd by brandishing the knife at them. On this occasion also, the shops were immediately closed.

The order of detention has been challenged on the ground that the activities of the petitioner may be a problem of law and order, but can not be said to be prejudicial to the maintenance of public order. Further, the Commissioner of Police has erred in not disclosing the identity and other particulars of the witnesses by claiming privilege under section 9 (2) of the Act. It is submitted that on account of this non-disclosure, the petitioner's right to make effective representation is jeopardised.

I find no substance in either of the contentions. Be it noted that all the alleged offences have been committed in quick succession one after the other and in the same manner. The petitioner's robbing the passers-by and threatening them with lethal weapon and dispersing the crowd by brandishing a long knife, leaves no doubt

that the petitioner's activities are detrimental to the maintenance of public order. Besides, on two occasions, even the shops in the locality had to be closed down immediately. The witnesses' unwillingness to give statements against the petitioner, inspite of the assurance of protection by the concerned officer, is explicitly recorded in the order of detention. Besides the Commissioner of Police had personally called the witnesses and ascertained whether their fear of the petitioner was genuine or not. The Commissioner of Police, thus, had ascertained that the witnesses were genuinely apprehensive of retaliation by the petitioner and that unless obscurity were assured, they would not give statement against the petitioner. The Commissioner of Police, therefore, was absolutely right in claiming privilege conferred under section 9 (2) of the Act.

There being no other challenge to the order of detention, in view of the above discussion, the impugned order of detention does not call for interference.

Petition is, therefore, dismissed. Rule is discharged.

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JOSHI